

State of California

Franchise Tax Board-Legislative Services Bureau
PO Box 1468
Sacramento, CA 95812-1468

Telephone: (916)845-4326
ATSS: 468-4326
FAX: (916)845-5472

Legislative Change No.

98-06

Bill Number: AB 2798

Author: Machado

Chapter Number: 98-323

Laws Affecting Franchise Tax Board:

Government Code Sections 7073, 7074, 7076.1, 7076.2
and Revenue and Taxation Code Sections 17052.12,
17052.17, 17052.18, 17053.33, 17053.34, 17053.47,
17053.49, 17053.70, 17053.74, 17273, 17276.2, 23153,
23221, 23609, 23612.2, 23617, 23617.5, 23622.7,
23622.8, 23633, 23634, 23649, 24416.2

Date Filed with the Secretary of the State: August 20, 1998

SUBJECT: Omnibus Tax Measure

Assembly Bill 2798 (Machado), as enacted on August 20, 1998, made the following changes to California law:

Section 7073 of the Government Code is amended.

This act extends the designation period of each enterprise zone that was designated before 1990 from 15 to 20 years if certain criteria are met.

Except as discussed on page 5 of this Legislative Change, the changes made to Section 7073 are effective January 1, 1998.

Section 7074 of the Government Code is amended.

This act allows for geographic expansion of 20% (rather than 15%) of any enterprise zone that is no greater than 13 square miles.

Except as discussed on page 5 of this Legislative Change, the changes made to Section 7074 are effective January 1, 1998.

Sections 7076.1 and 7076.2 are added to the Government Code.

This act provides that Trade and Commerce Agency (TCA) may audit enterprise zone programs and determine a result of superior, pass, or fail, and may dedesignate failing programs. Additionally, this act provides that TCA may designate additional enterprise zones upon the expiration of existing ones to maintain a total of 39. This act specifies that any business located in a dedesignated zone that has elected to avail itself of any state tax incentive for any taxable or income year prior to dedesignation may continue to avail itself of those tax incentives for a period equal to the remaining life of the enterprise zone, provided the business otherwise is still eligible for those incentives. Further, this act states that a dedesignated enterprise zone is no longer an enterprise zone for designation purposes.

Except as discussed on page 5 of this Legislative Change, Sections 7076.1 and 7076.2 are effective January 1, 1998.

Bureau Director

Date

Johnnie Lou Rosas

10/9/98

Sections 17052.12 and 23609 of the Revenue and Taxation Code are amended.

This act revises the state alternative incremental credit portion of the research expenses credit by modifying the formula to 80% of the federal alternative incremental credit formula.

This act also specifies that "qualified research expense" does not include any amount paid or incurred for tangible personal property that is eligible for the sales tax exemption provided under Section 6378 of the Revenue and Taxation Code (relating to teleproduction and postproduction).

In addition, this act technically corrects a reference to a federal code section contained in the state research expenses credit.

Except as discussed on page 5 of this Legislative Change, the changes made to Sections 17052.12 and 23609 apply to taxable or income years beginning on or after January 1, 1998.

Sections 17052.17, 17052.18, 23617, and 23617.5 of the Revenue and Taxation Code are amended.

This act extends the sunset date to taxable or income years beginning before January 1, 2003, for the two employers' tax credits known as the Employer Child Care Program Credit and the Employer Child Care Contribution Credit. This act also extends the repeal date of these two credit to December 1, 2003.

Except as discussed on page 5 of this Legislative Change, the changes to Sections 17052.17, 17052.18, 23617, and 23617.5 apply to taxable and income years beginning on or after January 1, 1998.

Sections 17053.33 and 23633 of the Revenue and Taxation Code are amended.

This act modifies the income apportionment rules for the targeted tax area sales or use tax credit to a two-factor formula based on California sourced income instead of worldwide income.

Except as discussed on page 5 of this Legislative Change, the new apportionment formula applies to taxable or income years beginning on or after January 1, 1998.

Sections 17053.34 and 23634 of the Revenue and Taxation Code are amended.

This act modifies the income apportionment rules for the targeted tax area hiring credit to a two-factor formula based on California sourced income instead of worldwide income.

This act also technically changes the criteria in the targeted tax area hiring credit definition of "qualified employee" to include an individual who is a member of a targeted group under the federal work opportunity credit instead of the expired federal Targeted Jobs Tax Credit Program. Finally, this act corrects a typographical error in the targeted tax area hiring credit contained in the Personal Income Tax Law by changing "employes" to "employs."

Although the changes made by this bill to the targeted tax area hiring credit were chaptered out by AB 2809 (Stats. 1998, Ch. 1039), all of the changes contained in this bill were double-joined with AB 2809.

Except as discussed on page 5 of this Legislative Change, the targeted tax area hiring credit changes apply to taxable or income years beginning on or after January 1, 1998.

Sections 17053.47 and 23622.8 of the Revenue and Taxation Code are amended.

This act modifies the income apportionment rules for the manufacturing enhancement area hiring credit to a two-factor formula based on California sourced income instead of worldwide income.

This act also corrects the definition of "qualified employer" in the manufacturing enhancement area hiring credit contained in the Bank and Corporation Tax Law to reflect the same criteria as that in the Personal Income Tax Law.

Although the changes made by this bill to the manufacturing enhancement area hiring credit were chaptered out by AB 2809 (Stats. 1998, Ch. 1039), all of the changes contained in this bill were double-joined with AB 2809.

Except as discussed on page 5 of this Legislative Change, the new apportionment formula applies to taxable or income years beginning on or after January 1, 1998.

Sections 17053.49 and 23649 of the Revenue and Taxation Code are amended.

This act extends the Manufacturers' Investment Credit (MIC) to taxpayers involved in activities described in Standard Industrial Classification (SIC) codes 7371 to 7373, relating to computer programming and computer software.

This act also modifies the definition of "qualified taxpayer" to include lines of businesses described in SIC codes 7371 to 7373 and modifies the definition of "qualified property" to include computers and computer peripheral equipment used in those businesses primarily for the development and manufacture of prepackaged software or custom software prepared to the special order of the purchaser who uses the program to produce and sell or license copies of the program as prepackaged software. The value of any capitalized labor costs directly allocable to the construction or modification of such property is included in "qualified property." "Qualified property" for taxpayers involved in computer businesses does not include any tangible personal property (e.g., shrink wrap machines, fork lifts, etc.) other than computers and computer peripheral equipment.

The changes to the MIC apply to taxable or income years beginning on or after January 1, 1998. In addition, the act specifies that, for taxpayers engaged in computer programming and computer software related activities, qualified costs would not include costs associated with a binding contract in existence on or before January 1, 1998.

Sections 17053.70 and 23612.2 of the Revenue and Taxation Code are amended.

This act modifies the income apportionment rules for the enterprise zone sales or use tax credit to a two-factor formula based on California sourced income instead of a four-factor formula based on worldwide income.

This act also expands the definition of qualified property for the enterprise zone sales or use tax credit to include data processing and communication equipment and motion picture manufacturing equipment.

Except as discussed on page 5 of this Legislative Change, the changes to the enterprise zone sales or use tax credit apply to taxable or income years beginning on or after January 1, 1998.

Sections 17053.74 and 23622.7 of the Revenue and Taxation Code are amended.

This act modifies the income apportionment rules for the enterprise zone hiring credit to a two-factor formula based on California sourced income instead of a four-factor formula based on worldwide income.

This act also makes a technical change by adding numbering for existing law text.

Although the changes made by this bill to the enterprise zone hiring credit were chaptered out by AB 2809 (Stats. 1998, Ch. 1039), all of the changes contained in this bill were double-joined with AB 2809.

Except as discussed on page 5 of this Legislative Change, the changes to the enterprise zone hiring credit apply to taxable or income years beginning on or after January 1, 1998.

Section 17273 of the Revenue and Taxation Code is amended.

This act increases to 40% the amount that is allowed as a state deduction in the computation of adjusted gross income for the cost of health insurance incurred by a self-employed individual in the computation of adjusted gross income.

Except as discussed on page 5 of this Legislative Change, the self-employed health insurance provisions apply to taxable years beginning on or after January 1, 1999.

Section 17276.2 and 24416.2 of the Revenue and Taxation Code are amended.

This act modifies the income apportionment rules for the economic development area net operating loss provisions to a two-factor formula based on California sourced income instead of either a four-factor or two-factor formula based on worldwide income.

This act also corrects a chaptering error by reinstating the December 1, 1998, sunset date of the Los Angeles Revitalization Zone net operating loss provisions as enacted by AB 18 (Stats. 1993, Ch. 18)

Although the changes made by this bill to the economic development area net operating loss provisions were chaptered out by AB 2809 (Stats. 1998, Ch. 1039), all of the changes contained in this bill were double-joined with AB 2809.

Except as discussed on page 5 of this Legislative Change, the changes to the economic development area net operating loss apply to taxable or income years beginning on or after January 1, 1998.

Section 23153 and 23221 of the Revenue and Taxation Code is amended.

This act reduces the prepayment of the minimum franchise tax to the Secretary of State from \$600 to \$300 for qualified new corporations that incorporated on or after January 1, 1999.

This act reduces the minimum franchise tax from \$800 to \$500 for the second income year for corporations incorporated on or after January 1, 1999, that have gross receipts, less returns and allowances reportable to this state, of less than \$1 million for the income year.

This act requires a qualified new corporation to pay an additional tax of \$500 for its first income year or \$300 for its second income year on the due date of its tax return, without regard to extension, if the corporation's first or second income year gross receipts exceed \$1 million.

This act modifies the definition of "qualified new corporation" to include only businesses that begin operation at or after the time of its incorporation. Further, "qualified new corporation" does not include any business that began operation as a single proprietorship, a partnership, or any other form of business prior to its incorporation. Thus, not all corporations that qualify for the \$600 minimum franchise tax under prior law continue to qualify for the lower taxes provided in this act.

This act specifies that the reduced minimum franchise tax does not apply to certain entities, including limited liability companies, limited liability partnerships, and subsidiaries. The act also does not apply to any corporation that reorganized solely for the purpose of reducing its minimum franchise tax.

Except as discussed below, the minimum franchise tax provisions are effective upon enactment and apply to certain minimum tax payments for income years beginning on or after January 1, 1999.

This act's provisions are effective immediately as an urgency statute and generally apply to taxable or income years beginning on or after January 1, 1998 (see each code section for specific operative date). However, this act specifies that if Proposition 7 of the November 3, 1998, general election is approved by the voters, this act will be deemed to have been inoperative from the effective date of the bill.

This act will not require any reports by the department to the Legislature.